

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 07-06-04.

The IRO reviewed office visits, therapeutic exercises, myofascial release, electrical stimulation- unattended, hot/cold pack therapy, manual therapy technique rendered from 07-09-03 through 08-27-03 that were denied based "V".

The IRO determined that office visits **were not** medically necessary. The IRO determined that all other services reviewed **were** medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the **majority** of issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 08-02-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

Code **E0730-P** date of service 07-10-03 was denied with denial "V" medical necessity with peer review. The requested service (TENS Unit) was

preauthorized (authorization number 1063608) on 07-09-03. Per Rule 134.600(b)(1)(B) reimbursement is recommended in the amount of \$495.00.

CPT code **99212** dates of service 08-15-03, 08-18-03 and 08-20-03 denied with denial code "N" (not appropriately documented). The requestor submitted relevant information to meet documentation criteria. Reimbursement is recommended per the Medical Fee Guideline effective 08-01-03 in the amount of \$125.79 ($\$33.53 \times 125\% = \$41.91 \times 3 \text{ DOS}$).

CPT code **97140-59** dates of service 08-15-03, 08-18-03 and 08-20-03 denied with denial code "N" (not appropriately documented). The requestor submitted relevant information to meet documentation criteria. Reimbursement is recommended per the Medical Fee Guideline effective 08-01-03 in the amount of \$92.70 ($\$24.72 \times 125\% = \$30.90 \times 3 \text{ DOS}$).

CPT code **97110** dates of service 08-15-03 and 08-18-03 Recent review of disputes involving CPT code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings indicate overall deficiencies in the adequacy of the documentation of this code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one". Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division (MRD) has reviewed the matters in light of the Commission requirements for proper documentation.

The MRD declines to order payment for code 97110 because the daily notes did not clearly delineate the severity of the injury that would warrant exclusive one-to-one treatment.

CPT code **99212-25** date of service 08-29-03 denied with code "L" (not treating doctor approved treatment). Per the approved TWCC-53 on 03-11-03 the treating doctor of record was changed from Dr. C to Dr. R. Reimbursement per the Medical Fee Guideline effective 08-01-03 in the amount of \$41.91 ($\$33.53 \times 125\%$) is recommended.

CPT code **98940** dates of service 08-29-03 and 09-03-03 denied with code "L" (not treating doctor approved treatment). Per the approved TWCC-53 on 03-11-03 the treating doctor of record was changed from Dr. C to Dr. R. Reimbursement per the Medical Fee Guideline effective 08-01-03 in the amount of \$60.28 ($\$24.11 \times 125\% = \$30.14 \times 2 \text{ DOS}$) is recommended.

CPT code **97140-59** date of service 08-29-03 denied with code "L" (not treating doctor approved treatment). Per the approved TWCC-53 on 03-11-03 the treating doctor of record was changed from Dr. C to Dr. R.

Reimbursement per the Medical Fee Guideline effective 08-01-03 in the amount of \$30.90 ($\$24.72 \times 125\% = \30.90) is recommended.

CPT code **97110** dates of service 08-29-03 and 09-03-03 denied with denied with code "L" (not treating doctor approved treatment). Recent review of disputes involving CPT code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings indicate overall deficiencies in the adequacy of the documentation of this code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one". Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division (MRD) has reviewed the matters in light of the Commission requirements for proper documentation.

The MRD declines to order payment for code 97110 because the daily notes did not clearly delineate the severity of the injury that would warrant exclusive one-to-one treatment.

CPT code **99211-25** date of service 09-03-03 denied with code "L" (not treating doctor approved treatment). Per the approved TWCC-53 on 03-11-03 the treating doctor of record was changed from Dr. C to Dr. R. Reimbursement per the Medical Fee Guideline effective 08-01-03 in the amount of \$23.36 ($\$18.69 \times 125\% = \23.36) is recommended.

Review of the requestor's and respondent's documentation for CPT code **99080-MR** date of service 10-16-03 revealed that neither party submitted copies of EOB's. On review of the recon HCFA proof of submission was provided by the requestor. Reimbursement in the amount of \$81.00 is recommended.

This Findings and Decision is hereby issued this 12th day of October 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this order. This Decision is applicable for dates of service 07-09-03 through 10-16-03 in this dispute.

This Order is hereby issued this 12th day of October 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dlh

August 25, 2004

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-04-3820-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: 5055

Dear

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's
Information provided by Requestor: correspondence, office notes, physical therapy

notes, EMG report and radiology reports.

Information provided by Respondent: correspondence and designated doctor exam.

Information provided by Spine Surgeon: office notes.

Information provided by Pain Management Specialist: office notes and operative reports.

Clinical History:

The claimant is a 47-year-old male who was involved in a work-related event on ____ at which time he injured his low back. MR imaging of the lumbar spine from 01/21/03 revealed 2-3 mm disc protrusion at L4/L5, bilateral facet hypertrophy causing mild foraminal narrowing, and spinal stenosis. Chiropractic consultation on 03/18/03 revealed a diagnosis of lumbar discogenic syndrome, lumbar facet syndrome, lumbar radiculitis, and lumbosacral iliac disorder; the worker was placed into a trial of conservative management that included manipulation and passive physical therapy with a transition towards active physical therapy applications.

Lumbar epidural steroid injection series was performed on 04/23/03 and a subsequent lumbar epidural injection series was performed on 06/18/03. Designated doctor examination with on 05/05/03 revealed that the claimant was not at maximum medical improvement, and anticipated date of MMI was 07/05/03; the claimant was advised to continue with physical therapy applications. Pain management evaluation on 07/23/03 revealed the necessity of implementing facet injections with post-procedural physical therapy applications. The claimant had a set of facet injections performed on 08/06/03 and a subsequent set performed on 08/18/03.

Disputed Services:

Office visits, therapeutic exercises, myofascial release, electrical stimulation-unattended, hot/cold pack therapy, manual therapy technique during the period of 07/09/03 through 08/27/03.

Decision:

The reviewer partially agrees with the determination of the insurance carrier and is of the opinion that the office visits during the period in dispute as stated above were not medically necessary. All other treatment and therapy in dispute as stated above was medically necessary in this case.

Rationale:

There is no medical record provided that can sufficiently separate out the office visits from the physical therapy application charges. They seem very much blended into the responsibilities of physical therapy management. Invasive pain controls were warranted in the management of this claimant's condition; and, post-procedural physical therapy management was necessary and medically appropriate.

The aforementioned information has been taken from the following guidelines of clinical practice and/or peer reviewed references.

- Falco, F. J. *Lumbar Spine Injection Procedures In The Management of Low Back Pain*. Occup Med 1999 Jan-Mar;13(1):121-49.
- Low Back. Work Loss Data Institute; 2003 50 p.
- *Overview of Implementation of Outcome Assessment Case Management In The*

- Clinical Practice.* Washington State Chiropractic Association; 2001, 54p.
- *Unremitting Low Back Pain. North American Spine Society Phase III. Clinical Guidelines for Multidisciplinary Spine Care Specialists.* North American Spine Society. 2000. 96 p.